



***Town of Tyngsborough***  
***Planning Board***  
25 Bryants Lane,  
Tyngsborough, Massachusetts 01879-1003  
Office: (978) 649-2300 ext. 115

MINUTES  
April 19, 2012

**APPROVED**

Attachments:

1. Meeting Agenda
2. David E. Ross Associates, Inc. St. Mary Lane St. Acceptance Review – 4/9/12
3. Letter from Attorney Charles Zaroulis regarding street acceptance procedures – 4/19/12
4. Letter from Attorney Charles Zaroulis regarding Surety Default Subdivision Notices – 4/19/12

Members Present: Steve Nocco  
Bill Gramer  
Steve O'Neill  
Caryn DeCarteret  
Jesse Johnson, David E. Ross Associates

Members Absent: Tom Delmore  
Pamela Berman, Administrative Assistant

**7:00pm -** Meeting called to order by Chairman Steve Nocco

**7:05pm St. Mary Lane Street Acceptance**

S. Nocco explained that all of the work was completed for this street and all of the necessary paperwork was submitted by the developer per the bylaws to allow for acceptance of this street and to release the remaining bond money. Board engineer J. Johnson reported that he viewed the street and had no issues to report. S. Nocco raised the issue of the process for street acceptance and the need for a deed conveying the land consisting of the roadway to the Town and other procedures per advice from Town Counsel Charles Zaroulis. Selectman Robert Jackson was present and discussed with the Board recent correspondence he had with Attorney Zaroulis as to the street acceptance procedures. S. O'Neill stated that the Board could vote to release the bond money subject to receiving the necessary deed and the satisfaction of any other requirements in order for the Town to accept the roadway.

Michael Sokolowski of 25 Rock Rd. asked the Board about the street sign for the roadway and commented that he did not believe that it had the properly sized letters or the proper reflectivity, and asked who is responsible for the installation of the proper street signs. Rod Wood, who has been working with the Town on the street acceptance project, reported that he believed the proper signs would be installed by the Town after the street is accepted.

In addition, it was noted that there is no stop sign. S. O'Neill stated that there was an effort to work with the Greater Lowell Technical High School to have the Town's signs improved and uniform throughout the Town in order to comply with the State's street sign law requiring Town compliance by 2015 and 2018. There was further discussion regarding a requirement suggested by the Highway Department that the installation of the proper street and stop signs be a condition of any vote to approve release of the bond money.

**S. O'Neill:** Motion to recommend to the Board of Selectmen the acceptance of St. Mary Lane, and to approve the release of the remaining bond money on the condition that the developer signs the required deed to transfer the land to the Town, that the proper signs are installed per the requirements of the Highway Department (street sign and stop sign), and that Jesse Johnson will view the roadway again to make sure everything is completed properly.

**W. Gramer:** 2<sup>nd</sup> the motion

**In Favor: 4 Opposed: 0 Absent: 1**

**Passes: 4-0-1**

## **Discussion**

### **Street Acceptance Update**

Selectman Robert Jackson appeared before the Board and provided an update on the street acceptance project. Selectman Jackson discussed with the Board correspondence received from Town Counsel Charles Zaroulis dated April 19, 2012 that addresses the procedures necessary to accept a street. He went on to comment that the Town can accept any of the unaccepted roads regardless of their condition, and that the Town could plan to accept up to twenty (20) roads per year.

Selectman Jackson also explained the process in notifying developers who have not properly constructed subdivision roads and who have bond money remaining with the Town, of the Town's intent to take the remaining bond money and deem it "forfeited" by the developer, thereby enabling the Town to use that money toward the engineering costs necessary in order to get the formal street acceptance packages completed. There was further discussion concerning the content of the developer letter which was addressed at a prior meeting with the Town Administrator and Attorney Zaroulis concerning how to comply with the applicable law, Attorney Zaroulis' request for additional information before approving the form of the developer letter.

Selectman Jackson added that there is no incentive for a developer to finish the roadway since the cost for them to do so is likely much more than any bond money that would be forfeited. S. Nocco explained that a lot of these roads are older and in the past the bond was set too low, however, the current Planning Board is ensuring that the bond amounts are set appropriately, and that the money is not released until the street acceptance procedure is completed by the developer. Both Selectman Jackson and S. Nocco expressed their strong desire to move this

forward as soon as possible and get the letters out to the developers immediately. Selectman Jackson inquired if the Board was ready to send out those letters based on the information previously provided by Town Counsel. S. Nocco stressed that the Board will need Town Counsel approval of any letter issued to a developer regarding this issue as it is being signed by the Planning Board, and the Board does not want to subject itself and the Town to the possibility of litigation. S. O'Neill also stressed that he would prefer that Town Counsel sign the letters as well. W. Gramer reviewed the letter from Attorney Zaroulis (Surety Default Subdivision – Notice, dated 4/19/12) requesting more information, and noted that while most of the requests were for basic background information there was a question about whether the Town was subjected to the provisions of MGL c. 41, Section 81U. W. Gramer said that this should be looked at more closely to understand the Board's obligations. There was agreement among the Board to hold off on sending out any letters to developers until the content could be approved by Town Counsel.

### **Administrative**

The minutes for April 5, 2012 were not ready for approval.

**7:45pm**

**C. DeCarteret:** Motion to adjourn

**S. O'Neill:** 2<sup>nd</sup> the motion

**In Favor: 4 Opposed: 0 Absent: 1**

**Passes: 4-0-1**

Minutes respectfully submitted by  
Pamela Berman  
Planning Board Administrative Assistant